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July 12, 2023

VIA ECF

The Honorable John P. Cronan, U.S.D.J.
U.S. District Court, Southern District of New York
500 Pearl St.
New York, NY 10007-1312

Re: *Hernandez v. Pramer*
Case No.: 23-cv-02608

Dear Honorable District Judge Cronan:

This law firm represents Plaintiff Mariela Hernandez (the “Plaintiff”) in the above-referenced matter.

Pursuant to Your Honor’s Individual Motion Practice Rules, this letter respectfully serves to respond to Your Honor’s Your Honor’s July 6, 2023 Order [Dckt. No. 10], and to provide the Court with a status update in the above-referenced action.

This letter further respectfully serves as a request for an enlargement of time, *nunc pro tunc*, to file an affidavit of service as to Defendant Patricia Pramer (a/k/a) Patricia Machado Pramer (the “Defendant”), to, through and including August 12, 2023.

I. Legal Standard

Rule 4(m) provides, in relevant part:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

George v. Pro. Disposables Int’l, Inc., 221 F. Supp. 3d 428, 432 (S.D.N.Y. 2016) (citing Fed.R.Civ.P. 4(m)).

Under Rule 4(m), a district court must grant a plaintiff an extension of time for service if the plaintiff demonstrates good cause. *Id.* Even in the absence of good cause, however, district courts have discretion to grant extensions of time to effect proper service. *Id.* (citing *Zapata v. City of New York*, 502 F.3d 192, 196 (2d Cir. 2007)); *see also Mares v. United States*, 627 Fed.Appx. 21, 23 (2d Cir. 2015) (summary order) (“Although an extension of time is required when good cause has been shown, a district court has wide latitude in deciding when to grant extensions absent good cause.” (internal citation omitted)).

“Good cause is measured against the plaintiff’s reasonable efforts to effect service and the prejudice to the defendant from the delay, and the court should look to whether the plaintiff was diligent in making reasonable efforts to effect service.” *Id.* (citation omitted).

II. Analysis

On April 12, 2023, Plaintiff’s process servers advised the undersigned that on or around April 12, 2023, the attempted to serve the Defendant at the address located at 360 East 64th St., New York, New York, 10065 and that their attempt was unsuccessful.

On June 1, 2023, Plaintiff filed a request for the issuance of an amended summons, which included an updated address for Defendant, at 340 East 64th St., New York, New York, 10065. [See Dckt. No. 8]. The Court Clerk subsequently issued an amended summons on June 2, 2023. [See Dckt. No. 9].

Following the issuance of the Amended Summons, the undersigned directed Plaintiff’s process servers to re-attempt service on the Defendant, at the new address identified in the amended summons, *i.e.*, 340 East 64th St., New York, New York, 10065.

As of the date of this filing, Plaintiff’s process servers are still in the process of finalizing service on the Defendant. The undersigned anticipates Plaintiff’s process servers to accomplish service on or before August 12, 2023.

III. Conclusion

The undersigned law firm apologies to the Court for all inconvenience caused. The undersigned intends to proceed with the initial case conference once Defendant has been served, and appeared, or alternatively, proceed with the filing of a motion for default, in the event of Defendant’s continued non-appearance.

Thank you, in advance, for your time and attention to this matter.

The request is granted. While the Court does not find that good cause exists under Rule 4(m) to extend Plaintiff’s time to complete service, the Court extends that time in its discretion, *nunc pro tunc*, through August 12, 2023.

SO ORDERED.
Date: July 13, 2023
New York, New York


JOHN P. CRONAN
United States District Judge

Respectfully submitted,

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